IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITON NO.402 OF 1998

Bhupendra M. Bheda. ...Petitioner.

vs.

M/s.Dhoot Consultants. ...Respondent.

Mr.H.Toor i/b. Mayur Narendra & Co., for Petitioner.

Mr.Suresh Dhoot, Representative of Respondent present.

CORAM: D.K.DESHMUKH,J.

DATED: 14th November,2005

P.C.:-

1. By this petition, the petitioner challenges the Award made by the Arbitral Tribunal of the Stock Exchange. Though several jurisdictional issues were attempted to be argued before me, as none of them are raised in the petition, obviously they are not permitted to be argued.

2. So far as the merits are concerned, the claim made by the respondent is concerned, the learned Arbitrators have clearly observed that the claim was admitted by the petitioner. It was submitted before me that the observation is not right and the petitioner had not admitted the claim. If that is so and if according to the petitioner, the learned Arbitrators have wrongly recorded that the claim was admitted, then remedy available to the petitioner was to approach the learned Arbitrators under Section 33 of the Arbitration and Conciliation Act,1996, for correcting the statement recorded by the learned Arbitrators. In view of the clear observation of the learned Arbitrators that the claim was not disputed by the petitioner, I find no error in the Award.

3. So far as the Counterclaim made by the petitioner is concerned, the learned Arbitrators have observed that the petitioner himself has stated in the affidavit filed in the Criminal Court that the Cipla transactions has been made by his own employee Mr.Narendra. It was submitted that no such affidavit which is alleged to have been filed by the petitioner before the Criminal Court, was produced on record. In my opinion, the contention cannot be accepted. The learned Arbitrators have considered this issue in detail and have rejected the counterclaim made by the petitioner. Considering the

extremely limited jurisdiction of this Court under Section 34 of the Arbitration and Conciliation Act,1996, the Award made by the learned Arbitrators in my opinion, cannot be disturbed. The petition is therefore dismissed.

4. Taking advantage of the fact that the respondent appears in person considerable time of the Court is taken by the petitioner's lawyer in arguing the points which were even not raised in the petition, in my opinion, exemplary cost is required to be imposed on the petitioner. The petitioner is therefore, directed to pay to the respondent as and by way of cost of this petition Rs.10,000/-.